

US EPA ARCHIVE DOCUMENT

ECONOMIC ASSESSMENT
FOR THE FINAL POST-CLOSURE RULE

Prepared by

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Overview of the Final Post-Closure Rule

The Final Post-Closure Rule establishes two main changes to the procedures required for post-closure. First, the Environmental Protection Agency (EPA) is modifying the requirement for a post-closure permit, to allow EPA and the authorized States to use a variety of authorities to impose requirements on non-permitted land disposal units requiring post-closure care. Prior to this rule, the regulations governing RCRA permitting required owners and operators of non-permitted land disposal units closing with waste in place to obtain a permit addressing post-closure care and facility-wide corrective action. As a result of this rule, regulators have the flexibility to use alternate mechanisms under a variety of authorities to address these requirements, based on the particular needs at the facility.

Second, for all facilities, EPA is amending the regulations governing closure of land-based units that have released hazardous constituents to allow certain units to be addressed through the corrective action program. Prior to this rule, two sets of regulatory requirements arguably applied at facilities with both regulated units (RUs) and solid waste management units (SWMUs) releasing hazardous constituents -- closure requirements at the regulated units, and corrective action requirements at the solid waste management units. As a result of this rule, EPA and the authorized States will have discretion to use corrective action requirements, rather than closure requirements, to address the regulated units. This flexibility will reduce the potential for confusion and inefficiency created by the application of two different regulatory requirements.

Regulatory Impact Analysis

Under Executive Order 12866 (issued September 30, 1993), an Economic Assessment (EA) is required for all significant Federal regulations. Significant regulations are defined as those that are likely to (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or, (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

This EA examines the cost impacts associated with the Final Post-Closure Rule. The analysis indicates that the rule would result in an overall cost savings, but that these cost savings would not be greater than \$100 million annually; create a serious inconsistency or otherwise interfere with actions by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or, raise novel legal or policy issues arising out of legal mandates. The overall cost savings estimated for the rule is approximately \$500,000 (No benefits estimate has been prepared for this rule). In spite of the cost savings estimated for the rule, it is viewed as being significant and will be reviewed by the Office of Management and Budget.

Of the two major changes being finalized in the rule, only the first one discussed above is being addressed in a quantitative manner in this EA. This change will allow EPA and the States to have the option of either issuing post-closure permits or using alternative mechanisms for ensuring the proper management and care of facilities after their closure. The benefit to the regulated community derives from the potential avoidance of the permit process for post-closure, as well as eliminating duplication of effort in cases where EPA and the States have already issued enforcement orders to ensure expeditious action by facility operators. The total cost savings for this change are shown in Table 1 below, and are estimated to be approximately \$500,000.

The second main provision in the rule allows closure of RUs, under certain conditions, to be addressed through the corrective action program, rather than the application of standard closure requirements (in Part 264 or 265). This provision will provide a common-sense solution to those circumstances where a RU awaiting closure is in the midst of SWMUs undergoing corrective action due to a detection of a release. EPA has not

attempted to estimate any cost impacts associated with this provision due to the fact that the overall requirements for post-closure and for corrective action are substantially equivalent. Further, as each approach is protective of human health and the environment, there are no changes in risk expected due to this provision.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 requires federal agencies to assess whether proposed regulations will have a significant economic impact on a substantial number of small entities. According to EPA's *Guidelines for Implementing the Regulatory Flexibility Act* (May 1992), an RFA is required for any rulemaking unless no impact is expected on any small entity. The *Guidelines* further require the Agency to develop and consider alternatives that mitigate the impact of the rule on small entities. The *Guidelines* also state that EPA may tailor the level of effort they devote to an RFA to the severity of a rule's anticipated impacts on small entities. Because the Final Post Closure Rule is not expected to impose net costs on any small entities, no RFA has been performed and EPA has not considered options to mitigate the potential impacts of the final rule.

Small Business Regulatory Enforcement Fairness Act

On March 29, 1996, President Clinton signed into law H.R. 3136, the Small Business Regulatory Enforcement Fairness Act ("SBREFA"), P.L. 104-121. The purposes of SBREFA are:

- (1) to implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations;
- (2) to provide for judicial review of chapter 6 of title 5, United States Code;
- (3) to encourage the effective participation of small businesses in the Federal regulatory process;
- (4) to simplify the language of Federal regulations affecting small businesses;
- (5) to develop more accessible sources of information on regulatory and reporting requirements for small businesses;
- (6) to create a more cooperative regulatory environment among agencies and small businesses that is less punitive and more solution-oriented; and,
- (7) to make Federal regulators more accountable for their enforcement actions by providing small entities with a meaningful opportunity for redress of excessive enforcement activities.

In order to comply with the technical policies contained in SBREFA 1996, the Agency has empaneled a task force to review and revise EPA guidelines for implementing the Regulatory Flexibility Act as amended by SBREFA. The SBREFA Task Force has recommended that the Agency implement an alternative analysis (Initial Assessment) as part of its 1996 revision to guidance for Section 605 (b) of the Regulatory Flexibility Act. This section concerns the Administrator's certification as to whether a "significant impact" on a "substantial number of small entities" will occur as a consequence of provisions contained in the rule.

The Agency has recommended that, for rulemakings where the expected impact of provisions contained therein is net cost savings, that no significant impact on a substantial number of small entities is expected to be incurred. Because the Final Post-Closure Rule is not expected to impose net costs on any small entities, the Agency has not conducted an Initial Assessment.

Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a statement to accompany any rule where the estimated costs to State, Local, or Tribal governments in the aggregate, or to the private sector, will be \$100 million or more in any one year. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly impacted by the rule.

EPA has completed an analysis of the costs from today's final rule and has determined that this rule does not include a Federal mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate. As stated above, EPA estimates a cost savings of approximately \$500,000 for the provisions in the final rule. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act, and results of this analysis are presented in this Economic Assessment document.

Estimating Respondent Cost Savings from Changes in Post Closure Care Requirements

EPA estimated respondent cost savings associated with the post-closure rule changes based upon ICR #1573. When available, EPA used facility information contained in the Agency's Resource Conservation and Recovery Information System (RCRIS) to estimate the total number of respondents covered in ICR #1573.

Final Post-Closure Rule: Universe Potentially Affected by Changes in Post Closure Care Requirements

The number of facilities estimated to take advantage of the Final Post-Closure Rule change is defined as the number of land disposal facilities remaining to be permitted in the post-closure workload universe (1,201, determined from RCRIS). Because of duplicative information requirements of EPA and the States, the universe of 1,201 facilities is assumed to benefit from the final post-closure rule due to a reduction in Section 270 information requirements.

Estimated respondent cost savings resulting from reduced information requirements under the final post-closure rule are covered in ICR #1573 (applied to the universe of 1,201 facilities estimated to take advantage of the Post-Closure Rule) and addressed in Table 1 on the following page. In deriving the respondent costs, EPA estimated an average hourly respondent labor cost of \$60.42 for legal staff, \$38.35 for managerial staff, \$26.91 for technical staff, and \$16.36 for clerical staff. These estimates include hourly wages and overhead expenses. To arrive at these estimates, EPA consulted with hazardous waste facilities and an industry trade association.

Summary of Cost Savings from Changes in Post-Closure Care Requirements: Respondent Information Collection Requirements

Table 1 illustrates the estimated respondent cost savings for information collection requirements only under the Final Post-Closure Rule. The total estimated cost savings resulting from the elimination of duplicative administrative work occur over a period of several years at the 1,201 land disposal facilities in the post-closure workload universe. The total estimated cost savings to respondents (in undiscounted 1996 dollars) for those information collection requirements for which duplicative administrative work would be eliminated is detailed in Table 1: \$507,002.

Table 1
Estimated Respondent Cost Savings Associated with Information Collection Requirements
(As a Result of the Post-Closure Rule Change)
N=1,201

Information Collection Activity	Cost per Respondent/ Activity	Total Estimated Potential Cost Savings/ Information Collection Activity
General Facility Standards		
Collect the data required in the waste analysis plan	\$ 46.79	\$ 56,195
Write the waste analysis plan	\$ 53.35	\$ 64,073
Collect the data required in the contingency plan	\$ 42.33	\$ 50,838
Write the contingency plan	\$ 43.72	\$ 52,508
Prepare the description of procedures, structures, or equipment	\$ 47.09	\$ 56,555
Prepare a description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes	\$ 47.13	\$ 56,603
Prepare description of traffic patterns, volume, and control	\$ 46.09	\$ 55,354
Prepare outline of personnel training programs and description of training design	\$ 47.68	\$ 57,264
Write descriptions of personnel training programs and description of training design	\$ 47.97	\$ 57,612
Total Estimated Potential Cost Savings Associated with the above listed Information Collection Requirements	\$ 422.15	\$ 507,002

* Totals may not add due to rounding.